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To: Commissioner for Patents for Examiner Ronald Laneau Group Art Unit 3627	Facsimile No. 571/273-8300
From: Louise Fay Paralegal to Duke W. Yee	No. of Pages Including Cover Sheet: 9
<p>Enclosed herewith:</p> <ul style="list-style-type: none">• Transmittal document;• Notice of Reinstatement of Appeal;• Pre-Appeal Brief Request for Review form (PTO/SB/33); and• Reasons in Support of Applicant's Pre-Appeal Brief Request for Review (5 pages).	
Re: Application Serial No. 09/859,705 Attorney Docket No. YOR920000770US1	
Date: August 18, 2006	
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

AUG 18 2006

In re application of: Au et al.

Serial No.: 09/859,705

Filed: May 17, 2001

For: Method and Apparatus for a
Distributed Web Commerce System§
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§
§

Group Art Unit: 3627

Examiner: Laneau, Ronald

Attorney Docket No.: YOR920000770US1

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By:

Candace Crawford

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PATENT TRADEMARK OFFICE
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Sir:

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- Notice of Reinstatement of Appeal;
- Pre-Appeal Brief Request for Review form (PTO/SB/33); and
- Reasons in Support of Applicant's Pre-Appeal Brief Request for Review (5 pages).

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Respectfully submitted,



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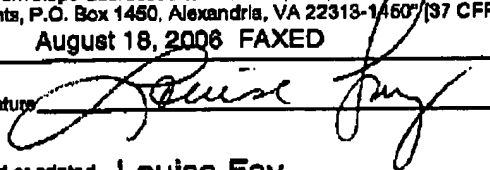
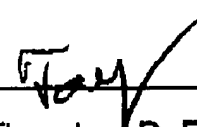
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PTO/SB/33 (07-06)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)	
		YOR920000770US1	
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		09/859,705	May 17, 2001
		First Named Inventor	
		Au et al.	
		Art Unit	Examiner
		3627	Ronald Laneau
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.			
This request is being filed with a notice of appeal.			
The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the			
<input type="checkbox"/> applicant/inventor.		 Signature Theodore D. Fay, III Typed or printed name 972-385-8777 Telephone number August 18, 2006 Date	
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/08)			
<input checked="" type="checkbox"/> attorney or agent of record. 48,504 Registration number			
<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34			
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.			
<input checked="" type="checkbox"/> Total of <u>1</u> forms are submitted.			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1460, Alexandria, VA 22313-1460. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1460, Alexandria, VA 22313-1460.

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Serial No.: 09/859,705

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For: Method and Apparatus for a
Distributed Web Commerce System§
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Group Art Unit: 3627

Examiner: Ronald Laneau

Attorney Docket No.: YOR920000770US1

35526PATENT TRADEMARK OFFICE
CUSTOMER NUMBER**REASONS IN SUPPORT OF APPLICANTS' PRE-APPEAL**
BRIEF REQUEST FOR REVIEWCommissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This document is submitted in support of the Pre-Appeal Brief Request for Review in furtherance of the Notice of Reinstatement of Appeal filed together with this request on August 18, 2006, in compliance with 37 C.F.R. 41.31 and with the rules set out in the OG of July 12, 2005 for the New Appeal Brief Conference Pilot Program.

No fees are believed to be required. If, however, any fees are required, I authorize the Commissioner to charge these fees which may be required to IBM Corporation Deposit Account No. 50-0510. No extension of time is believed to be necessary. If, however, an extension of time is required, the extension is requested, and I authorize the Commissioner to charge any fees for this extension to IBM Corporation Deposit Account No. 50-0510.

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REMARKS

Applicants hereby request a Pre-Appeal Brief Review (hereinafter "Request") of the claims presented as of the non-final office action mailed May 18, 2006. The Request is provided herewith in accordance with the rules set out in the OG dated July 12, 2005. A pre-appeal brief review is needed because the rejections are clearly in error and will be overturned on appeal.

The Examiner rejects claims 1-15 and 32-46 under 35 U.S.C. §103(a) as obvious over *Westrope* (U.S. Patent 5,721,832) in view of *Kennedy*, (U.S. Patent 6,167,380). Applicants first address the rejection of claim 1. Claim 1 is as follows:

1. (Original) A method in a primary data processing system for managing a catalog, the method comprising:
 - sending a catalog and user information to a plurality of secondary data processing systems located in a network data processing system;
 - allocating inventory associated with the catalog to the plurality of secondary data processing systems;
 - receiving an order from one of the plurality of secondary data processing systems; and
 - processing the order, in response to receiving the order.

Regarding claim 1, the Examiner asserts that:

As per claims 1, 3, 8, 11-15, 32-35 and 42-46, *Westrope et al* teach a method in a primary data processing system for managing a catalog (fig. 5, catalog data processor 67), method comprising: sending a catalog and user information to a plurality of secondary data processing system located in a network data processing system (marketing data processor 75, accounting processor 73); receiving an order from one of the plurality of secondary data processing systems and processing the order, in response to receiving the order (fig. 5, 43). *Westrope* does not explicitly disclose allocating the inventory but *Kennedy* discloses for allocating products to sellers, for managing available to promise (ATP) and making promises to fulfill customer requests.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the allocation of products as taught by *Kennedy* into the data processing as taught by *Westrope* because it would provide an automatic allocation policy that allows the organization to designate a forecast entry such that the available-to promise (ATP) product is always zero (col. 3, lines 18-21).

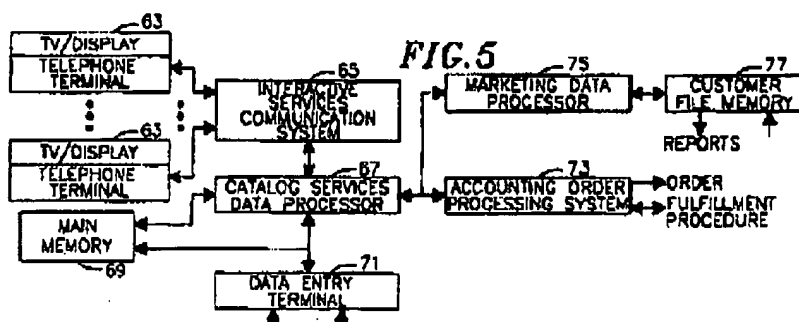
Office Action dated May 18, 2006, pp. 2-3.

Contrary to the Examiner's assertions, *Westrope* does not teach or suggest sending a catalog and user information to a plurality of secondary data processing

systems, as claimed. *Kennedy* is devoid of disclosure in this regard. For this reason, the proposed combination does not teach all of the features of claim 1. Accordingly, the Examiner has failed to state a *prima facie* obviousness rejection against claim 1.

Regarding the step of sending a catalog and user information to a plurality of secondary data processing systems, the Examiner states that marketing processor 75 and accounting processor 73 are a plurality of secondary data processing systems used in the claimed manner. However, the Examiner is manifestly incorrect, as has been pointed out to the Examiner in prior office action responses and in the prior request for pre-appeal brief.

In support of this assertion the Examiner has stated that, "...*Westrope* in fact disclose a plurality of secondary data (marketing data processor 75, accounting data processor 73) seen in fig. 5." Office action of April 21, 2005. In the office action of September 28, 2005, the Examiner stated, "Contrary to Applicant's arguments, the catalog services data processor (fig. 5, 67) is coupled to the secondary data processing systems (marketing data processor and accounting data processor) so that the catalog and user information can be sent or transmitted to the secondary data processing systems." The Examiner did not address this issue in the current office action. However, the Examiner's characterization of *Westrope* continues to be clearly incorrect based on the plain meaning of *Westrope*. For example, figure 5 of *Westrope* is as follows:



The text related to figure 5 states, in relevant part:

The electronic catalog data would be entered via data terminal 71 and stored in selectable memory locations in the main memory 69. Preferably applicants' system would include electronic catalog data for a plurality of different catalogs from different companies.

...

If a user elects to order a specific product or service, this is done under menu control at a user terminal and the menu would prompt the user to enter the appropriate order data codes via, for example, a touchtone telephone pad on the user terminal 63. In response to receipt

of such user order data codes, the catalog data processing signals the accounting and order processor 73, which is similar in function and structure to the order and accounting processor of FIGS. 1 and 3 to exercise the appropriate order processing requests to clear the customer/user's financial payment authorization and initiate the order fulfillment procedure to have the ordered products assembled and mailed to the address directed by the user/customer for that particular transaction. As herein above described in conjunction with FIGS. 1 and 3, the catalog data processor 67 in response to a customer/user order signals the marketing data processor 75, which is similar in structure and function to the marketing data processor described above in connection with FIGS. 1 and 4, to generate, unless the customer does not so authorize, customer profile marketing data in file 77 as described in FIGS. 6, 7 and 8. Accounting and order processor 73, which is structurally and functionally equivalent to the accounting and order processor described in FIGS. 1 and 3, initiates various accounting, financial payment authorization and/or assembly and shipping procedures as described in conjunction with FIGS. 6, 7 and 8. Accounting and order processor 73 as illustrated in FIG. 8 also in response to a command from the central data processor 67 initiates a software or program routine procedure to generate commission data for accumulating a commission file entry for the individual host hotel or site of the interactive catalog subsystem from which a particular order originated.

Westrope, col. 6, l. 58 through col. 7, l. 65. (Emphasis in italics to show portions relevant to the present case; emphasis in bold to show portions cited by the Examiner.)

Figure 5 and the accompanying text in *Westrope* do not teach sending a catalog and user information to a plurality of secondary data processing systems, as recited in claim 1. Even if the accounting order processing processor (73) and the marketing data processor (75) could be construed as a plurality of secondary data processing systems as claimed, a point that Applicants do not concede, *Westrope* does not show sending a catalog and user information to either system. Regarding the former system, *Westrope* sends only a signal to the accounting order processing processor 73 to process the customer financial data and customer ordering data. *Westrope*, col. 7, ll. 28-36 (quoted above). None of the data sent to system 73 teaches or suggests a catalog and user information as recited in claim 1. No teaching, suggestion, or incentive exists to send the claimed information to system 73 because that information already exists and has been used as intended by the catalog services data processor 67.

Regarding the latter system, *Westrope* only sends a signal to the marketing data processor 75 to generate the customer profile marketing data. *Westrope*, col. 7, ll. 36-44 (quoted above). None of the data sent to processor 75 teaches or suggests a catalog and user information as


claimed. No teaching, suggestion, or incentive exists to send the claimed information to processor 75 because that information already exists and has been used as intended by catalog services data processor 67. Thus, neither of the systems to which the Examiner refers is sent a catalog and user information in the manner claimed.

Furthermore, *Kennedy* does not teach or suggest anything that would cure the lack of disclosure in *Westrope* in this regard. Hence, the cited references do not teach or suggest all of the claimed features as asserted by the Examiner and the proposed combination does not result in the invention of claim 1. Accordingly, the Examiner clearly has failed to state a *prima facie* obviousness rejection against claim 1.

Additionally, the assertions the Examiner makes regarding *Kennedy* are also manifestly incorrect. The Examiner has also clearly failed to state a proper teaching, suggestion, or motivation to combine the references. In addition, neither processor 75 nor processor 67 is a secondary data processing system, as claimed. Thus, for multiple reasons, the rejection of claim 1 is clearly incorrect and should be withdrawn.

Because the Examiner clearly has failed to state a *prima facie* obviousness rejection against claim 1, the Examiner has also clearly failed to state a *prima facie* obviousness rejection against the remaining claims. In light of the fact that no prior art has been shown to render the claims anticipated or obvious, Applicants request that the rejections be withdrawn and the claims allowed.

Respectfully submitted,



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